

MINUTES
Town of Crested Butte
Special Town Council Meeting
Monday, May 15, 2017
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 6:35PM.

Council Members Present: Jim Schmidt, Jackson Petito, Roland Mason, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Belkin, and Planning Director Michael Yerman

Town Clerk Lynelle Stanford, Parks and Recreation Director Janna Hansen, Building and Zoning Director Bob Gillie, and Finance Director Lois Rozman (all for part of the meeting)

APPROVAL OF THE AGENDA

Stanford stated that item #4, under New Business, was to be removed from the agenda.

Merck moved and Mitchell seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

EXECUTIVE SESSION

Michel read the reason for the Executive Session:

For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding water rights acquisition.

Schmidt moved and Petito seconded a motion to go into Executive Session for the above stated reason. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 6:37PM. Council returned to open meeting at 7:05PM. Mayor Michel made the required announcement before returning to open meeting.

PROCLAMATION EXPRESSING APPRECIATION FOR BOB GILLIE

Michel presented the proclamation that designated June 2, 2017 Robert Gillie day.

CONSENT AGENDA

- 1) May 1, 2017 Regular Town Council Meeting Minutes.
- 2) Restaurant/Bar Seating on Public Sidewalks for: Brick Oven LTD DBA Brick Oven Pizzeria Located at 223 Elk Avenue; The Sunflower LLC DBA The Sunflower Located at 214 Elk Avenue; B & C Restaurants LLC DBA Elk Avenue Prime Located at 226 Elk Avenue; Vertigo Ventures LLC DBA The Secret Stash Located at 303 Elk Avenue; Teocalli Tamale Company DBA Teocalli Tamale Located at 311½ Elk Avenue; and Barmuda LTD DBA Talk of the Town Located at 230 Elk Avenue.
- 3) ARTumn Festival Special Event Application Closing the 0 Block of Elk Avenue from September 16 to September 17, 2017.
- 4) Crested Butte Farmers Market Special Event Application on Sundays from June 4 to October 8, 2017 in the 100 Block of Elk Avenue, with the Exception of Sunday, August 6, When the Farmers Market Will Be Located in the 0 Block to Collaborate with Arts Festival.
- 5) Crested Butte Bike Week Special Event Application for June 22 to 24, 2017 to Include the Chainless Race with a Special Event Liquor Permit on Friday, June 23, 2017 in the 10 and 100 Blocks of Elk Avenue and the 1st and Elk Parking Lot and the Fat Tire 40 with Liquor Permit on Saturday, June 25, 2016, Closing 7th Street from Elk Avenue to Butte Avenue and Start and Finish in Town Park and the Crested Butte Junior Wildflower Classic on Sunday, June 25 in Town Park.
- 6) Bridges of the Butte 24-Hour Townie Tour Special Event Application, from Noon on June 24 to Noon on June 25, 2017 Closing Parking on the South Side of Elk Avenue with Basecamp in Town Park.
- 7) 4th of July Special Event Application for the Parade Closing Elk Avenue from 2nd Street to 7th Street with Parade Line up on 8th Street from Elk Avenue to Red Lady Avenue and Festivities on Elk Avenue at 3rd Street from Maroon Avenue to Sopris Avenue on July 4, 2017.

Schmidt moved and Mason seconded a motion to approve the Consent Agenda as presented. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

None

STAFF UPDATES

Bob Gillie

- This meeting would be his last Council meeting.

Janna Hansen

- Seasonal crew started today.
- They still needed to power wash Elk Avenue.
- She was working with Clark's on the food for the Town picnic. They were providing a discount and helping with delivery. She would be emailing sign-up sheets for help at the picnic.

Michael Yerman

- There would be a special meeting this Wednesday for Sixth Street Station.
- Cypress Development was in preliminary and final plat hearings with the County.
- The ditch agreement was removed from the agenda to provide time for allowance for comments from the owners.

Lynelle Stanford

- The picture of the Council was postponed to the next meeting.
- The Council approved special events on the Consent Agenda, and there would be more on the upcoming agendas.

Dara MacDonald

- Informed the Council that she would forgo buying a vehicle, and the Town now owned four new bikes. Staff was working to brand them.
- The Brush Creek RFP was issued by Gunnison County this week.
- There would be commercial leases ready for the next meeting agenda.

PUBLIC HEARING

1) Ordinance No. 11, Series 2017 - An Ordinance of the Crested Butte Town Council Adopting an Administrative Plan Presented by the Town Manager for the Departments of Town Administration Pursuant to C.R.S § 31-4-215 and Merging the Building and Planning Departments Pursuant to § 6.9 of the Crested Butte Home Rule Charter.

Michel confirmed proper public notice was given. MacDonald explained the background on the ordinance. She stated it would be in the best interest of Town to merge the Building and Planning Departments into one. The ordinance also fulfilled the statutory requirement for the Manager to submit an administrative plan.

The public hearing was opened to public comment. There were no comments from the public. The public hearing was closed. It was moved to Council discussion, and there was no further discussion.

Schmidt moved and Petito seconded a motion to approve Ordinance No. 11, Series 2017 as read by the Mayor. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Ordinance No. 12, Series 2017 - An Ordinance of the Crested Butte Town Council Amending Chapter 2, Article 8 of the Crested Butte Municipal Code to Expand the Creative District Commission Membership and Including Requirements Related Thereto.

Michel confirmed proper public notice was given. Yerman reminded the Council the Commission asked for the expansion from seven to nine members. They thought the additional members would help.

The meeting was opened to public comment. There were no comments from the public, and the public hearing closed. Schmidt affirmed that it was a good idea. There was no further discussion by the Council.

Schmidt moved and Merck seconded a motion to approve Ordinance No. 12, Series 2017. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

3) Ordinance No. 13, Series 2017 - An Ordinance of the Crested Butte Town Council Approving the Amendment to Lease Agreement with The Center for the Arts Related to Town-owned Property Located at Lots 1-16, Block 50, Town of Crested Butte, Colorado.

Mason recused himself and left the room.

Michel confirmed proper public notice had been given.

MacDonald and Belkin suggested methods of handling the two ordinances related to the Center for the Arts. It was decided the public hearings would be addressed per the usual process.

Ed Schmidt presented on the Center for the Arts' behalf. He reviewed the provision of surety, securing funds, campaign progress, and notice to proceed. The tenant improvement agreement was to help guarantee the performance of the Center to complete Phase 1. The provisional recommendation was to secure a minimum of 50% of the construction costs before issuance by the Town of the notice to proceed. E. Schmidt explained all cash would be put into an account, as well as restricted funds. Michel asked for a breakdown of the cash. J. Schmidt questioned the amount budgeted for the playground, which Hansen helped to clarify. MacDonald elaborated upon the overall contribution from Town. E. Schmidt updated the Council on their campaign process. He stated their comfort level was high to achieve the campaign.

Michel requested a review of the \$11.3M raised by the campaign to date. E. Schmidt specified they could collect at the level of 95% to 100%. E. Schmidt presented a slide

depicting a graph of cash flow gap projections, assuming they raised no more money. Next, there was a slide with a graph based on the premise that they raised the same amount this summer as what they did last summer. However, they believed they would achieve a \$4M campaign this summer. He described their approach to fund-raising as realistic and timely. E. Schmidt showed a slide defining the initial notice to proceed and the notice to proceed.

Michel was trying to get a grasp on what money was there and when it was coming. E. Schmidt told the Council that at the notice to proceed, the bank statement would reflect that \$7.3M was there. Michel acknowledged the Center did not currently have the money to finish Phase 1. E. Schmidt affirmed that 50% of funds would be available upon breaking ground.

The public hearing was opened to public comment.

Harry Woods - Artistic Director of Crested Butte Mountain Theatre

- Supported the Center's expansion.
- He wanted to know percentages of funds raised this summer that would come from within the Valley, within the State, and out of State.

Melissa Mason - 501 5th St

- She listed her roles both personally and professionally.
- She attended the Colorado Creative Industries Summit in Breckenridge, where she learned what was happening around the State. The State was supporting the Arts. Right now was a make or break moment.
- The Center was the anchor of the Creative District.
- The donors would follow the Town Council.

Nancy Bush - 108 Whiterock

- She seconded Mason's opinion.
- She was a yea.

Don Haver - 118 Teocalli

- Outlined history behind the project.
- They could see the end.
- The money would come once the ground was broken.
- He was very much for it.

Andrew Hadley - 826 Whiterock

- Highly believed in the need for the facility.
- Once the momentum got going, then people would be excited for the project. He wanted to keep the momentum.
- There was basically one chance a year to hit target dates on construction.

Teresa Rijks - Owner of an Art Gallery in Town

- Decided to donate 10% of their sales in support of the Center.

Mary Tuck - 513 Belleview

- Space to create was a problem in the Valley.
- The Center was needed desperately. It was for the community.
- She voted for space to create.

David Rothman - 17 Maroon Ave

- He had been involved in music and the arts. He reviewed his background. His life was about education and the arts.
- He mentioned the achievement of the Creative District.
- The risk was warranted because of the leadership at the Center.
- J. Schmidt questioned the outcome of the Academy and how this would not result in the same.

Laura Elm - 725 Gothic Ave

- The Center had seen exponential growth in past years.

Steve Gibbs - 417 2nd St

- He was impressed by how the Center was a community center.
- If they wanted to keep it going, they needed the facility.
- It was the heart of the city, and it was imperative it was put together.
- The money would come.

John O'Neal - 416 Gothic

- It was a vote for the community.

The public hearing was closed, and the meeting was opened for Council discussion.

Michel identified there was neither surety nor full funding at this point. The question was whether Council was comfortable with a shell of a building, if the money didn't come in. He was concerned taxpayers could be required to backfill. J. Schmidt thought it was a leap of faith into the known. He wanted to see it happen. Petito was curious about the mechanism, which Town would be stuck backfilling. MacDonald stated they were preparing for the worst-case scenario with a partially completed structure. Mitchell did not feel comfortable putting out millions of dollars on the line. She wondered if they could put it off for one more year. She asked what would be affected if all of Town's money was going towards the Center. Michel asked Crockett Farnell, Construction Manager for the Center, his opinion on worst-case scenario, which he described along with alternative uses for the building. Merck supported the Center moving forward. J. Schmidt identified the worst-case scenario as Town getting a building and an asset. He really wanted to see it.

Schmidt moved and Merck seconded a motion to approve Ordinance No. 13, Series 2017. A roll call vote was taken with all voting, "Yes," except Mitchell voted, "No." Mason had recused himself and did not vote. **Motion passed.**

4) Ordinance No. 14, Series 2017 - An Ordinance of the Crested Butte Town Council Waiving the Requirements of Chapter 4, Article 6 of the Crested Butte Municipal Code with Respect to The Center for the Arts' Renovation and Expansion Project Located at Lots 1-16, Block 50, Town of Crested Butte.

Michel confirmed proper public notice had been given. MacDonald explained Ordinance No. 13 was the amendment to the lease and allowed construction going forward. Ordinance No. 14 waived the requirement that projects above a certain threshold were put out for bid. The provision could be set-aside in this case because the Center was the tenant and in charge of construction. Second, in the ordinance, was the tenant improvement agreement.

The meeting was opened to public comment. There were no comments from the public. The public hearing was closed, and it was moved to Council discussion. There was no further discussion by the Council.

Schmidt moved and Merck seconded a motion to approve Ordinance No. 14, Series 2017. A roll call vote was taken with all voting, "Yes." Mason had recused himself and did not vote. **Motion passed unanimously.**

Mason returned to the meeting.

NEW BUSINESS

1) Presentation from Matt Reed, Public Lands Director of High Country Conservation Advocates (HCCA), on the Forest Service's Proposal to Approve a 1700-acre Expansion for the West Elk Coal Mine on Roadless Forest in Gunnison County.

Reed presented on the agenda item, and he included a request for a letter of support from the Council. Reed explained that they were expecting a proposal from Arch Coal to expand into the Sunset Roadless Area. He provided background on Arch Coal and their request to the BLM to continue its royalty rate reduction. He described the Federal royalty rate program. Reed asked the Council to submit a letter to BLM expressing Town's opposition to their approval of the royalty rate request. Reed stated that if they wanted to mine coal in Gunnison County they should pay their own way. Michel summarized Reed was requesting a letter from the Town opposing a reduction in fees that they were paying back to stakeholders where mining was occurring. Reed clarified the request to be that BLM not approve retroactive royalty reduction. Michel saw a direct tie to the money, including DOLA funding, affecting residents of Crested Butte. He was comfortable with sending a letter of support, and no one on Council voiced disagreement.

Schmidt moved and Mason seconded a motion to direct Staff to write a letter of support that would be reviewed by the Mayor. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Resolution No. 24, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Award of the Contract for the 4-Way Transportation Center.

Gillie updated the Council that Staff had gone through one round of bids. They weren't comfortable with the price, so they went back out to bid. The low bid on the second round was submitted by Pinnacle, and Staff recommended they be awarded the bid. \$400K had been allocated in the budget. As a result, the solar panels had been taken off, and there might not be adequate funds to re-do the bathrooms in the Chamber. Schmidt questioned the roof and indicated that he wanted them to explore grants (for solar panels on the roof). Michel agreed that ideally they would exist and the infrastructure would be there to include them in the future.

Merck moved and Schmidt seconded a motion to award the 4-Way transportation center contract to Pinnacle Incorporated in an amount not to exceed \$370,000 and authorize the Mayor to sign Resolution No. 24, Series 2017. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

3) Resolution No. 25, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Award of a Contract for the 2017 Full Depth Reclamation Project and Authorizing the Town Manager to Enter into a Construction Contract Between the Town of Crested Butte and Old Castle SW Group, Inc. dba United Companies.

MacDonald explained the full-depth recycling project. It came in slightly over budget, which changed after the winter snowfall. Staff recommended that Council approve the full amount. There was a discussion on the timeline for the work.

Merck moved and Mitchell seconded a motion to approve Resolution No. 25, Series 2017 and authorizing the Public Works Director to utilize up to \$484,625.00 for the project. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

4) Resolution No. 26, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Development Improvements Agreement and Ditch Relocation Agreement Affecting Lots 17-27, Block 1, Lots 6-16, Block 12, Lots 1-13 and 30-32, Block 11 and Lots 17-32, Block 2, Town of Crested Butte, Colorado.

Removed from agenda.

5) Resolution No. 27, Series 2017 - Resolutions of the Crested Butte Town Council Approving the License Agreement with Cypress Foothills, LP for Accessing and Affecting Certain Remediation Work on the Old Town Landfill Located on Town Property in the Location of the Eight Street Right of Way Adjacent to the Town Public Works Yard.

Yerman outlined the agenda item. He identified the question of whether to allow Cypress to clean up on Town property. Cypress would take on the VCUP application process. If

the clean-up occurred and they could construct 8th Street, the cost would be borne by the applicant. Attorney representing Cypress, Marcus Lock, informed the Council that it was an opportunity for Town to have the corridor cleaned up at Cypress's expense. Schmidt questioned the timetable on the clean-up and road construction. Lock thought it would be possible for final County approval in June, and clean-up of the dump could happen this summer. Schmidt wanted to know when the road would be constructed. Yerman stated they would grade in the roads and then do compaction and paving in 2018. Belkin elaborated that if something was found there, there was no protection under the contract to the Town.

Merck moved and Mason seconded a motion to approve Resolution No. 27, Series 2017. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

6) Resolution No 28, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Software License Agreement with Bear Cloud Software for the Implementation of STR Helper.

MacDonald told the Council that Staff met with managers, responding to the concern of accuracy with tracking vacation rental activity, from the County, City of Gunnison, and Town of Mt. Crested Butte, to review proposals from two vendors. After receiving proposals and quotes from both vendors, Staff recommended working with Bear Cloud Software to utilize STR Helper. There was cost savings to the municipalities because the County absorbed the implementation. MacDonald thought it would be a great tool, but it was an unbudgeted item.

Schmidt moved and Petito seconded a motion to approve Resolution No. 28, Series 2017, Resolutions of the Crested Butte Town Council approving a software license agreement with Bear Cloud Software for the implementation of STR Helper and approving the expenditure of up to \$7,500. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

7) Ordinance No. 6, Series 2017 - An Ordinance of the Crested Butte Town Council Amending the Definition of Vacation Rental in Section 16-1-20 of the Crested Butte Municipal Code; Amending Section 16-14-90 of the Code to Include New Regulations for Vacation Rentals; and Making Such Other Conforming Changes to Code in Connection Therewith.

Michel and Mitchell recused themselves and left the room. Mayor Pro Tem Mason assumed the Mayor's seat.

Mason asked Gillie to review his staff report, specifically the section entitled "the numbers." Mason recalled they asked for clarification on adding primary residence back into the ordinance. Gillie said there were slightly more free market homes owned by out of towners. The largest number of non-deed restricted units was in the green zone, and the vast majority of BOLT licenses were held by out of town owners. Gillie said they

attempted to define primary residence. He reviewed issues and questions that were discussed in the staff report that needed to be addressed.

Mason acknowledged that it appeared to be legal to separate the two licenses out to include the primary residence provision. He was comfortable with 35% of Town available for short-term rentals, which included opening up the zoning. The primary residence question arose because someone might want to rent out a home for a season. Mason thought that adding primary residence would add in another whole layer of complications. Schmidt knew second homeowners who could have the documents in the definition of primary residence listed in the staff report, but they weren't primary residents. He had discussed with Mason limiting to 35% all over Town, including the white zone and grandfathering into the white zone.

Merck wanted to know what they were gaining. Mason said they had to come to a point to move forward. Petito was in favor of a requirement for primary residence. He recognized the benefit of the primary residence exemption, and the benefit outweighed the administrative complexity. He wanted to continue with primary residence. Mason stated that if they moved to primary residence broken out, then they needed to look at the 35% cap. Mason calculated that if they took a primary residence out, it left 23% of the rest of the permits that were held by second homeowners. Schmidt suggested they lower the percentage in the green zone to 30% and set the limitation on primary residences at 60 days, if they included the primary residence category.

Mason asked the Council about the white zone. He wanted to clarify that primary residences could rent and then there would be the 30% cap. Belkin reminded the Council of what they were trying to do in identifying when a home became a lodge. Petito suggested they be required to provide documents to show primary residency, and then they would additionally attest on an affidavit that they lived here. Mason was willing to look at the primary residence piece with adding a few things. He thought 30% was a good number. He asked the Council if they were amendable to the 60-day limitation for a primary resident.

Jim Starr - 323 Gothic

- He wondered why electoral registrations wouldn't be counted.

Liz Sawyer - 810 Sopris

- She lived in the white zone, so they couldn't move into any other options.
- She was in favor of limiting the whole town to 35% or 32%.

Steve Ryan - 75 Escalante

- Brought up what he saw as the B Zone oversight.

Mason asked if the Council wanted to re-examine the white zone. Schmidt acknowledged it would affect the numbers for the rest of Town. Mason asked realistically how many people would be renting and how it would impact the neighborhood. Petito had no problem contemplating, and he wanted it well noticed

around the neighborhoods to hear from both sides of the issue. There were discussions concerning the numbers of STRs in certain zones and process. It was summarized the Council would consider the percentage change from 35% to 30% in the green zone, the 60-day limit on primary residences, and changing the zoning within the Verzuh Ranch annexation to allow short term rentals.

Schmidt moved and Petito seconded a motion to set Ordinance No. 6, Series 2017 for public hearing on June 5, 2017. **Motion passed.**

Belkin mentioned they may fine-tune the ordinance to address non-conforming uses.

Michel and Mitchell returned to the meeting, and Michel re-assumed the Mayor's seat.

LEGAL MATTERS

None

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Jim Schmidt

- Attended Gunnison County Housing Authority meeting last Tuesday. They welcomed the new director.
- They discussed the survey to raise money to support housing County-wide. They considered lodging and property taxes. The Board considered a 2% lodging tax.
- Commissioner Messner proposed taking over what ORE did.
- In Banff and Lake Louise, people could not live in town unless they worked there. It was pointed out that the towns were within the National Park.

Jackson Petito

- He would attend a Housing Foundation meeting on the 24th. They were currently interviewing executive director candidates.

Glenn Michel

- Attended Mayor/Managers meeting at Gunnison County.
- They would be running broadband over Cottonwood Pass, so it would be closed for two years.
- He would be going to Aspen for the Mayors' Climate Summit.

Roland Mason

- Had RTA Board Meeting on the 12th. They would be receiving a CNG bus. The facility was almost ready. They had plans to purchase a second CNG bus in January.
- The County tax for funding the air program was increased overall, but most airlines were experiencing pilot shortages. He asked the Council if they would like to provide a letter indicating that they needed to do something about the pilot

issue. It would affect Gunnison airport first. Michel suggested it could be a joint letter with the stakeholders.

- United would start flying to Denver on June 23rd. Direct flights to Houston would be starting on the 30th.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Mitchell brought forth the question of dispensaries being allowed to be open later than 7PM. Michel recalled that Town wanted to maintain the mom and pop dispensaries, and they were conservative in the beginning. Schmidt was willing to consider. Michel also recalled that they contemplated the general impact in the neighborhood. The Council directed MacDonald to include the topic on a future agenda.

Merck mentioned the parking lot near Pitas. MacDonald stated that parking was a conditional use, as opposed to a zoning issue. She provided the design of the parking lot.

Schmidt wanted double basements added back to list of work sessions. Mason said it went with the condo combine conversation. Michel confirmed to keep it on the list.


DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, June 5, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, June 19, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, July 10, 2017 - 6:00PM Work Session - 7:00PM Regular Council

Michel would be absent from the meeting on June 19th, and he confirmed Mayor Pro Tem Mason would be present.

ADJOURNMENT

Mayor Michel adjourned the meeting at 10:35PM.



Glenn Michel, Mayor



Lynelle Stanford, Town Clerk (SEAL)

